



# Montgomery County Clean Water Task Force

## Meeting Summary

February 1, 2010; 1:00 - 3:00pm  
Rockville Library, 1st floor meeting room



## Meeting Participants

There were 41 representatives from the agencies listed below. In addition, Diane Cameron from the Audubon Naturalist Society and Dusty Rood from Rodgers Consulting were invited as non-agency participants. There were no other non-agency participants in attendance. Attachment 1 shows participant information.

- Department of Environmental Protection (DEP)
- Department of General Services (DGS)
- Department of Transportation (DOT)
- Department of Permitting Services (DPS)
- Fire and Rescue Services (FRS)
- Maryland-National Capital Park and Planning Commission (MNCPPC) – Parks
- Maryland-National Capital Park and Planning Commission (MNCPPC) – Planning
- Montgomery County Public Schools (MCPS)
- Washington Suburban Sanitary Commission (WSSC)

## Background

The Department of Environmental Protection invited the agencies and external stakeholders from the previous Clean Water Task Force (CWTF) to a facilitated discussion of the opportunities and challenges to Environmental Site Design (ESD)/Low Impact Development (LID) for stormwater management in the County. Participants learned results from the initial consultant review of the County's codes, regulations, programs, and policies to allow ESD/LID techniques to be implemented to the maximum extent practicable (MEP). The meeting agenda is included as Attachment 2.

Meeting agenda, attendees, presentations, and summary are posted at:

<http://www.montgomerycountymd.gov/StormwaterPermit/>

## Introduction

**Bob Hoyt, Director, Montgomery County Department of Environmental Protection (DEP)**

Mr. Hoyt welcomed CWTF members and other participants. He updated the group on the status of the County's Municipal Separate Storm Sewer System (MS4) Permit. Maryland Department of the Environment (MDE) will be issuing the permit soon. He underscored how important it is for the agencies to coordinate to meet the permit requirements and protect water resources. Mr. Hoyt noted that implementing the permit is a priority for the County Executive. The County increased the water quality protection charge and capital improvement program 6-year budget by 240% to facilitate meeting the watershed restoration requirements of the Permit.

## Montgomery County's NPDES Permit and the CWTF Meo Curtis, Montgomery County DEP

Meo Curtis reviewed the results from the previous CWTF efforts. The CWTF objectives are to restore "fair" and "poor" quality streams while protecting "good" quality streams through addressing accountability and implementation of LID and ESD throughout Montgomery County. The CWTF included many County agencies, represented at this meeting, and involved environmental and business community representatives. Ms. Curtis stressed the importance of a comprehensive, coordinated activity that ensures streams protection to the MEP.

Ms. Curtis explained that Montgomery County Public Schools (MCPS) are now co-permittees on the County's permit. The County and its seven co-permittees must work together to:

- Accelerate watershed restoration
- Achieve Total Maximum Daily Load (TMDL) reductions
- Meet Potomac trash free treaty commitments



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- Review and change codes that limit ESD implementation

### What is Environmental Site Design?

Jennifer Zielinski, Biohabitats

Jennifer Zielinski explained what ESD is and how this approach contributes to stormwater management. Ms. Zielinski reviewed a variety of ESD sites and practices. Developers can easily implement many ESD practices.

Following the presentation, Juliana Birkhoff of Resolve, Inc., facilitated a discussion focused on how important it would be to understand the costs of different ESD techniques. Participants also stressed that the County had other green goals, i.e. energy conservation and renewable energy use. It will be important to make sure that ESD and other green technologies and goals are compatible.

### Relevant Planning and Zoning Issues

Rose Krasnow and Josh Sloan, MNCPPC Planning

Rose Krasnow discussed current Department of Planning activities. She focused on how those activities relate to stormwater management issues and plans. MNCPPC Planning has hired a consultant team to review the County's Zoning Code focusing on developing a new code that will better support a sustainable community. The Department of Planning will be rewriting the zoning code. The new zoning code will be more sustainable and incorporate opportunities for ESD. MNCPPC Planning will work with DEP to make sure that the planning activities are coordinated with the County's ESD code review project. Ms. Krasnow noted that it is hard to achieve competing goals for one site. For example, it is difficult to have minimal amounts of pavement while meeting fire and rescue regulations. To simplify this challenge, the Department of Planning will require more information in advance so that the agencies can identify potential conflicts early. There is still a concern about competition among varying interests, and it will be a balancing act to protect water quality, facilitate historic preservation, and continue development. Ms. Krasnow recognized that there is not a current conflict resolution body to make final decisions.

Ms. Krasnow discussed questions from Planning regarding how to include ESD in the most densely urban areas. Commercial and retail zoning allows for denser development. Therefore, the right of way may be the best area to detain or slow down stormwater by installing ESD applications. However, the right of way is also used for utilities, pedestrian traffic, and many other uses. Ms. Krasnow stated the County's priority to provide more guidance and incentives for developers to implement sustainable ESD practices in urban infill areas.

Josh Sloan discussed the challenges of including ESD in CR zones, which will cover 2-3% of County land to encourage redevelopment. The difficulty is in balancing space required by ESD facilities with dense development in urban locations, which tends to push stormwater management underground. Facilities should be allowed off-site and aggregated among various properties to make them efficient, affordable, and to allow for development of the site in an urban rather than suburban pattern. Trade off's or a looser reading of MEP, should be made to allow less stringent stormwater regulations (or more underground structured facilities) in the most dense areas given the environmental mitigation that is inherent in infill development. But encouragement should always be provided via incentives and efficient alternatives for properties to exceed stormwater regulations. Rights-of-way should be used for structured stormwater and microbio retention in medians, tree pits, and swales. Incentives must be provided to get people to redevelop. Greater regulations and more exactions will not get people to redevelop unless density or some other incentive(s) is provided in return. This should work together with policy to take development pressure off suburban/rural land.

### Identifying Potential Impediments to Environmental Site Design in County Code

Jennifer Zielinski and Nicole Stern, Biohabitats

Ms. Zielinski and Nicole Stern presented the review of the County Code and opportunities and barriers to implement ESD. They presented several recommendations for requirements, standards, ordinances, and best practices that include ESD practices and for those that might be barriers to ESD.



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The review found:

Chapters with No Barriers or Gaps for ESD	Chapters with Limited Barriers to ESD	Chapters with Significant Barriers, Gaps, and Opportunities
<ul style="list-style-type: none"><li>Chapter 14. Development Districts</li><li>Chapter 18A. Environmental Sustainability</li><li>Chapter 21. Fire and Rescue Services</li><li>Chapter 24B. Homeowners' Associations</li><li>Chapter 27A. Individual Water Supply and Sewage Disposal Facilities</li><li>Chapter 36. Pond Safety</li><li>Chapter 44. Schools and Camps</li><li>Chapter 45. Sewers, Sewage Disposal and Drainage</li><li>Chapter 54A. Transit Facilities</li></ul>	<ul style="list-style-type: none"><li>Chapter 8. Buildings</li><li>Chapter 22. Fire Safety Code</li><li>Chapter 22A. Forest Conservation - Trees</li><li>Chapter 26. Housing and Building Maintenance Standards</li><li>Chapter 40. Real Property</li><li>Chapter 41. Recreation and Recreation Facilities</li><li>Chapter 49. Streets and Roads</li><li>Chapter 50. Subdivision of Land</li><li>Chapter 58. Weeds</li><li>Trees, Approved Technical Manual (Maryland National Capital Park and Planning Commission)</li></ul>	<ul style="list-style-type: none"><li>Chapter 59 – Zoning (ESD coordination with Montgomery County recent Zoning Code Rewrite process)</li></ul>

### Significant Barriers and Gaps

- Chapter 59. Zoning
- Commercial Residential Zones
- Development Approval Process

### Fewer but Still Important Barriers and Gaps

- Chapter 22. Fire Safety Code
- Chapter 26. Housing and Building Maintenance Standards
- Chapter 49. Streets and Roads
- Chapter 50. Subdivision of Land

### Limited Barriers

- Chapter 8. Buildings
- Chapter 22A. Forest Conservation – Trees
- Chapter 40. Real Property
- Chapter 41. Recreation and Recreation Facilities
- Chapter 58. Weeds
- Trees, Approved Technical Manual (MNCPPC)

## What Do Agencies and Stakeholders Think About Barriers and Recommendations to Overcome Them?

### Comments from External Stakeholders and Facilitated Discussion

County agencies need to coordinate to ensure successful implementation to meet the requirements of the MS4 Permit. The agency representatives expressed their willingness to continue discussions to identify and remove barriers and gaps and create efficiencies for implementing ESD techniques.

- Montgomery County needs to consider the stormwater goals in the context of all of the County's planning goals. If the County isolates these goals, it will create conflict.
- The group recognized the importance of clarifying "Maximum Extent Practicable"
  - What is its relationship to budget and planning concerns?
  - Are there measurable goals for assessing MEP?
  - Who will decide what the MEP is on a case-by-case basis?
- One observation was that the public competes for the right of way, particularly in dense areas.
- The group recognized the importance of a conflict resolution system among agencies when there is disagreement during the development review process.



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- The Montgomery County zoning code needs to include incentives for ESD use.
- Several participants suggested maintenance concerns as the biggest impediment to successful ESD. Who maintains and pays for ESD techniques on public property? A County support system for maintaining ESD sites would ensure their effectiveness.
- Recommendations from the comprehensive code review will revise Chapter 19 (due May 4) making it more stringent. These code revisions could change how the county defines MEP. There was a concern that large projects are waiting, with budgets that will change because of required ESD elements. If the required elements change, so must the project budget. This is particularly difficult with projects that are on a government fast track.

Specific agency comments included:

### Hamid Omidvar, DGS

- The entire county is the beneficiary of this collaborative effort, sharing the benefits and the impacts of this work. There needs to be greater communication between the codes and agencies to ensure effective implementation and reduce the environment of confusion. Energy, clean water, and clean air are just a few mutual permitting interests that have impacts on one another.
- The USGBC LEED certification could be a potential solution that would include all of the interests.
- Developers should have a menu for ESD options. Developers could use the menu to choose different ESD practices for their projects. This will be more flexible and result in more ESD use.
- We need to be conscious of clutter while including ESD in development.
- MEP should be a state law, solving problems that arise from non-generic practicality issues that are difficult to solve on varying scales. We also need to ensure that projects do not only pursue the minimum in an effort to meet varying agency goals.

### Carla Reid, DPS

- Sharing information and bringing issues to the table early will help us work through potential conflicts efficiently.
- The current permitting system includes something similar to the menu we hope to see; however, more flexibility would help.

### Josh Sloan, Department of Planning

- Most people that come in with planning applications are looking for guidance towards best practices so that they may get their applications approved.
- Most of the planning conflicts are between agencies. There is a continuing need to assess how different agency needs work with one another.

### Rose Krasnow, Department of Planning

- Requiring a water quality plan for small lots is overly complex, the residential planning process needs to be streamlined not complicated.
- Small ESD practices require maintenance or they do not contribute to stormwater management. There needs to be a system in place that helps homeowners maintain their ESD practices.
- Planning does not count pervious pavement as pervious surface because it is often lacking maintenance plans, which leads to clogged and ineffective ESD practices.

### Craig Shuman, MCPS

- Our first concern is to minimize impervious surfaces. This is a challenge as the student population grows.
- Access roads to each ESD/maintenance site reduce our pervious area.
- The regulations all need to work together with a common goal.
- The definition of MEP needs to be clarified, along with the decision-making body for project specific questions.





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### **M.T. Habibian, WSSC**

- It is important for the group to focus on the watershed as a big picture, to ensure the legacy of stormwater management.

### **Bruce Johnston, DOT**

- It is important not to revert to a narrow focus by continuing a collaborative approach.
- Balance is important when deciding which ESD practices to implement. For example, tree pits may be great for stormwater management; however, road salt will damage the trees.
- There is a lot of competition for the edge of roadway including signage, utilities, street trees, lighting, and stormwater. We need to manage this small space appropriately, or make the public right of way wider. The community does not want a wider right of way, so there will need to be a delicate balance to this space
- DEP will now manage stormwater things in the right of way.
- How can the road code provide incentives for ESD?

### **Bob Hoyt, DEP**

- Stormwater is just one of many County goals, which must all be considered equally to ensure a sustainable solution.
- A mixture of ESD practices will help individual projects meet the county's stormwater goals

### **Mike Riley, MNCPPC-Parks**

- Parks are stewards for 10% of County's land, with a mission to be green.
- Parks is pursuing their own phase 2 NPDES permit.
- The pursuit, funding, and inspection of ESD maintenance will decide the future of stormwater management practices.

### **Presentations by Non-Agency Stakeholders**

Dr. Birkhoff introduced the non-agency stakeholders to provide additional perspectives on implementing ESD techniques in the County.

Diane Cameron (Audubon Naturalist Society and coordinator of Montgomery County Stormwater Consortium) emphasized the importance of comprehensive and coordinated stormwater solutions. She noted that a variety of external stakeholders exist including non-governmental organizations, citizen groups, and community organizations that should be partners in this effort moving forward. Stormwater management decisions are also part of watershed protection and restoration plans and activities. Ms. Cameron noted that recent research has documented that dense urban projects benefit from use of green landscaping features in many ways, including through higher profits, and the combination of such landscaping features with ESD stormwater designs should be investigated. Ms. Cameron advocated for a permanent coordinating committee for water resources. She identified four key issues while considering this potential solution:

- The Water Resources Policy Coordinating Committee will need to consider much more than just stormwater in their collaborative effort towards making the best watershed plan, policy, zoning, and transportation decisions.
- The stormwater permit is for all agencies, and the eight co-permittee agencies will need collaboration for the best solution.
- Outreach, education, training, and partnerships with citizen groups will ensure effective stormwater management practices.
- ESD solutions need to be free-flowing and creative to meet their projects needs. ESD should be implemented on the surface in less dense areas. MEP becomes more relevant in dense areas where developers must use above ground and underground ESD.

Dusty Rood (Rodgers Consulting) discussed integrating stormwater management in new development, redevelopment, and future planning. Each policy and practice has different characteristics and can benefit from unique solutions. A smart growth policy is important to encourage infill in redeveloping areas. Mr. Rood noted that requiring ESD on infill property takes up valuable land. He also asked how developers know when they have reached the MEP. He noted that ESD has changed over time. It focuses on filter area instead of volume base and cannot be solved with structural solutions only; it will require valuable development space. Implementing new ESD on old sites is a challenge for redevelopers. He stated



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that the new ESD standards hurt redevelopment more than new development because of their higher impervious percentages and poorer soils. There is a need to encourage infill development by spreading stormwater management burdens throughout the county. Mr. Rood concluded that best management practices for infill development require denser development. Therefore, there is more competition over land use between different agency needs. Agencies will need to coordinate the implementation of the MS4 Permit through their continued dialogue.

## Next Steps and Organization of Water Resources Policy Coordinating Committee

Meo Curtis, Montgomery County DEP

- Biohabitats will distribute the tabbed code spreadsheet and instructions for agency review. Agencies should aim to put their comments under their agency heading by close of business on February 22 in order to allow time for Biohabitats to compile comments and prepare for the next CWTF meeting.
- There will be another meeting in early March for additional discussion on the code review for ESD to the MEP implementation. During this meeting, agencies will identify consensus for activities and policies to meet the ESD code review requirement in MS4 Permit.
- The public will participate in a larger meeting the end of May or June to review a final draft set of recommendations.

Please direct any questions or comments about this summary to [ESD\\_review@montgomerycountymd.gov](mailto:ESD_review@montgomerycountymd.gov) and we will respond as soon as possible, Thank you.



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## Attachment 1 – Participant Information

Montgomery County  
Clean Water Task Force

Public Meeting Sign-In Sheet  
February 1, 2010

Name	Address	Email
Ahmed Naji	101 Monroe St. 71 <sup>th</sup> FL	Ahmed.Naji@mc-m-egov
Steve Shobe		
Mary Dolan	8787 Georgia Ave SS MD 20910	mary.dolan@mc-ppc-mc.org
RASSA DABETPOK	101 MONROE 7-6002	RASSA.DABETPOK@MONTGO
Nitra Perlaem	9500 Burnett Ave 55	mitra.perlaem@montgomerypurks.org
Michael A. Donahue	255 Rockville Pk. 2nd Fl	mike.donahue@montgomerycounty.md.gov
Andrew Frank	9500 Burnett Ave, S5 mo 20901	Andrew.Frank@mc-ppc-mc.org
JOSHUA SLOAN	8787 Georgia Ave Silver Spring 20910	JOSHUA.SLOAN@mc-ppc.org





Montgomery County  
Clean Water Task Force

Public Meeting Sign-In Sheet  
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Name	Address	Email
Hamid Omidvar	101 Monroe st 2nd floor	hamid.Omidvar@mc...
Rick Blush	DPS 255 Rockville Pike	Rick.Blush@...
Mike Blush	9500 Greenbelt Ave 55 MD 2094	Mike.Blush@... montgomeryparks.org
Marie LaBaw	MCPS 255 Rockville Pike, 2nd floor	marie.labaw@montgomerycounty.md.gov
John Hensch	MNCPPC	john-hensch@montgomeryparks.org
Doug Redmond	MNCPPC	Doug.Redmond@montgomeryparks.org
Rose Krasnow	MNCPPC	Rose.Krasnow@mcpspe-mc.org



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Name	Address	Email
M. T. HABIBIAN	WSSC	MHABIBIAN@WSSCWATER.ORG
Martin Chandler	WSSC	mchandler@wsscwater.com
Kyle Hankey	MC DOT	KYLE.HANKEY@MONTGOMERYCOUNTYMD.GOV
Josiah Jald	MC DGS	josiah.jald@mc.dgs
Michael Kay	MC DGS	michael.kay@montgomerycountymd.gov
Keith Levchenko	MC Council Staff	keith.levchenko@montgomerycountymd.gov
Millie Souders	MC DGS/Alert	millie.souders@montgomerycountymd.gov
Mark Symborski	M-MC PPC	mark.symborski@mcppc-mc.org
BRUCE JOHNSTON	MC-DOT	bruce.johnston@montgomerycountymd.gov
JOHN NISSIE	M-MC PPC	JOHN@MONTGOMERYPPC.ORG



Montgomery County  
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Name	Address	Email
Diane Cameron	AP5 8940 Jones dual Rd Cherry Chase, MD 20815	dcameron@aadubonaturalist.org
BRETT LINKLETTER	100 Edison Park Dr. 4th Floor Gaithersburg, MD 20878	Brett.Linkletter@montgomerycounty.md.gov
CRAIG SHUMAN	2096 Gaither Road Rockville, MD	richard_c-shumanjr@mcpsmd.org
DUSTY ROOS	19847 Pentons Blvd #200 GERMANTOWN 20874	DROOD@RODGERS.COM
Mark Pfefferle	8787 Georgis Ave Silver Spring, MD 20910	mark.pfefferle@montgomeryplanning.org
JAMES SONG	2096 Gaither Road #203 ROCKVILLE, MD 20850	james-song@mcpsmd.org
Stan Wong	255 Rockville Pike	stan.wong@montgomerycounty.md.gov
Geoffrey Mason	M-NCPPC Mont Parks 2000 Shorefield Rd Wheaton, MD 20912	geoffrey.mason@montgomeryparks.org
Carla Reid	DPS	Carla.Reid@montgomerycounty.md.gov
Jai Cole	1109 Spring St. Suite 800 Silver Spring MD 20910 M-NCPPC	jai.cole@montgomeryparks.org





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## Attachment 2 – Meeting Agenda and Handout





# Montgomery County Clean Water Task Force

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## Purpose

- Review background on Montgomery County's stormwater permit and the Clean Water Task Force;
- Summary of environmental site design and how it addresses stormwater and protects natural resources;
- Overview of County projects to implement environmental site design;
- Learn about Montgomery County activities to modify or rewrite the development approval process and zoning codes;
- Learn about review of Montgomery County Codes and recommendations to include environmental site design;
- Discuss Agency and stakeholder review of opportunities, gaps and barriers and how to promote and accelerate environmental site design implementation;
- Discuss organization and next steps for Water Resources Policy Coordinating Committee.

## Meeting Agenda

### 1:00-1:10 Introduction and Agenda Review

#### *Brief Presentation*

Objective: provide a clear road map for the meeting  
Juliana E. Birkhoff, RESOLVE  
Bob Hoyt, Director, Montgomery County Department of Environmental Protection (DEP)

### 1:10-1:15 Montgomery County's NPDES Permit and the Clean Water Task Force

#### *Brief Presentation*

Objective: make sure everyone is informed so they can participate well  
Meo Curtis, Montgomery County DEP

### 1:15-1:35 What Is Environmental Site Design?

#### *Brief Presentation*

Objective: make sure everyone knows the techniques so they can comment on how to incorporate into codes  
Jennifer Zielinski, Biohabitats

### 1:35-1:40 Questions and Answers about Environmental Site Design

Clean Water Task Force Members  
Juliana Birkhoff, RESOLVE

### 1:40-1:50 Relevant Planning and Zoning Issues

Objective: Make sure everyone knows what Department of Planning is already doing so review and recommendations are informed by current efforts  
Rollin Stanley, Director, Montgomery County Planning Department

### 1:50-2:10 Identifying Potential Impediments to Environmental Site Design in County Code

#### *Presentation*

Objective: learn what consultants have found in Code and their recommendations  
Nicole Stern and Jennifer Zielinski, Biohabitats

### 2:10-2:45 What Do Agencies and Stakeholders Think About Barriers and Recommendations to Overcome Them?

#### *Comments from External Stakeholders and Facilitated Discussion*

Objective: provide feedback to MD DEP on recommendations and discover any common ideas  
Clean Water Task Force Members  
Diane Cameron, Audubon Naturalist Society  
Dusty Rood, Rogers and Associates  
Juliana Birkhoff, RESOLVE

### 2:45-2:50 Public Comment

Opportunity for public to comment on barriers and recommendations

### 2:50-3:00 Next Steps and Organization of Water Resource Coordinating Committee

#### *Facilitated Discussion*

Objective: outline next steps for coordinated implementation strategy and NPDES permit support  
Meo Curtis, Montgomery County DEP  
Juliana E. Birkhoff, RESOLVE

### 3:00 Adjourn





# County Code Updates for Environmental Site Design (ESD)

February 1, 2010



## What is Environmental Site Design (ESD)?

According to Chapter 5 of the Maryland Stormwater Manual, ESD is a comprehensive design strategy for maintaining predevelopment runoff characteristics and protecting natural resources. ESD relies on integrating site design, natural hydrology, and smaller scale stormwater management controls to capture and treat runoff. As required by the Stormwater Management Act 2007 and the MS4 Permit, Montgomery County must implement ESD to the Maximum Extent Practicable (MEP).

## ESD involves PROCESSES and PRACTICES

### PRACTICES

- Alternative Surfaces
  - Green Roofs
  - Permeable Pavements
  - Reinforced Turf
- Non-Structural Practices
  - Disconnection of Rooftop Runoff
  - Disconnection of Non-Rooftop Runoff
  - Sheetflow to Conservation Areas
- Microscale Practices
  - Rainwater Harvesting
  - Submerged Gravel Wetlands
  - Landscape Infiltration
  - Infiltration Berms
  - Dry Wells
  - Micro-Bioretenion
  - Rain Gardens
  - Swales
  - Enhanced Filters

### PROCESSES

- Optimize conservation of natural features.
- Minimize impervious surfaces.
- Slow down runoff to maintain discharge timing and to increase infiltration and evapotranspiration.
- Identify potential locations for ESD practices early in the concept planning stage.
- Concurrently plan for stormwater management, density concerns, parking, fire and rescue, forest conservation, and the variety of other Code requirements identified below.

For more information:

<http://www.montgomerycountymd.gov/stormwaterpermit>

## Summary of the Code Review Process

- Barriers are impediments to ESD and are typically found when a specific planning or design requirement is counter to one or more ESD practice design requirements.
- Gaps are less obvious. Due to a lack of detail in the Code, these are subject to interpretation and may serve as impediments in certain situations.
- Opportunities are sections that promote or have the potential to promote ESD. In some of these cases, expanded language that references ESD is recommended.

### Chapters with No Barriers or Gaps for ESD

- Chapter 14. Development Districts
- Chapter 18A. Environmental Sustainability
- Chapter 21. Fire and Rescue Services
- Chapter 24B. Homeowners' Associations
- Chapter 27A. Individual Water Supply & Sewage Disposal Facilities
- Chapter 36. Pond Safety
- Chapter 44. Schools and Camps
- Chapter 45. Sewers, Sewage Disposal and Drainage
- Chapter 54A. Transit Facilities

### Chapters with Limited Barriers to ESD

- Chapter 8. Buildings
- Chapter 22. Fire Safety Code
- Chapter 22A. Forest Conservation - Trees
- Chapter 26. Housing and Building Maintenance Standards
- Chapter 40. Real Property
- Chapter 41. Recreation and Recreation Facilities
- Chapter 49. Streets and Roads
- Chapter 50. Subdivision of Land
- Chapter 58. Weeds
- Trees, Approved Technical Manual (MNCPPC)

### Chapters with Significant Barriers, Gaps, and Opportunities

- Chapter 59 – Zoning (ESD coordination with Montgomery County recent Zoning Code Rewrite process)